

REMARKS

Claims 23-38 remain pending in the present application. None of the claims have been amended.

REJECTION UNDER 35 U.S.C. §103(a)

The Examiner has rejected Claims 23-38 under 35 U.S.C. §103(a) as being unpatentable over Mooty et al. (U.S. Patent No. 6,656,626) in view of Buchholz et al. (U.S. Patent No. 6,357,533). The Examiner alleges that this combination discloses Applicant's claims.


Claim 23, defines, among other elements, a biasing member in the cavity. The battery pack is received in the receiving member so that the battery pack is in contact with the biasing member such that when the battery pack is secured on the frame, the biasing member is in a compressed condition and when the battery pack is released from the frame, the biasing member ejects the battery pack from the frame.

The Examiner alleges that Mooty illustrates such a biasing member. Clearly this not the case. The Mooty biasing member (125) moves a closure member (130) from a lock to release position. The biasing member neither discloses nor suggests contacting the battery pack. The biasing member does not eject the battery pack from the tool. The biasing member only allows the closure member to move from a locked position to an unlocked position, which is described in column 6, line 64-67 and column 7, lines 1-10. Thus, the Moody et al. reference neither discloses nor suggests Applicant's invention.

The Examiner next combines Mooty with Buchholz. The Buchholz reference is identical to the previously cited Habedank et al. (U.S. Patent No. 6,223,835) reference. Thus, the remarks with respect to Habedank et al., provided in the previous Amendment, equally apply to Buchholz. Accordingly, the combination of Mooty and Buchholz fail to disclose or suggest Applicant's invention since Buchholz fails to remedy the short comings of the Mooty reference. Accordingly, Applicants believe independent claims 23 and 29 as well as there dependant claims 24-28 and 30-38 to be patentably distinct over the art cited by the Examiner.

In light of the above amendments and remarks, Applicants submit that all pending claims are in condition for allowance. Accordingly, Applicants respectfully request the Examiner to pass the case to issue at his earliest possible convenience. Should the Examiner have any questions regarding the present application, he should not hesitate to contact the undersigned at (248) 641-1600.

Respectfully submitted,



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